



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,244	12/08/2003	Stephen C. Tulley	00-019-C1	2482
22927	7590	06/24/2004	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			BROCKETTI, JULIE K	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 06/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,244

Applicant(s)

TULLEY ET AL.

Examiner

Julie K Brockett

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12082003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-40 and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scanlon in view of "Double Lotto". Scanlon discloses a method of facilitating lottery ticket transactions. The lottery system receives a request from a player to purchase a lottery ticket. The player sends his selected lottery number combination for a lottery drawing to the lottery agent (col. 2 lines 57-63) [claim 36]. The price of the lottery ticket is then determined based on this indication and the agreement that there is only one ticket that lottery number combination and (Fig. 2). A modified potential prize amount is determined based on the received indication and that no more than the indicated limited number of occurrences of the lottery number combination will be sold for the lottery drawing. For example, each time a ticket is purchased, the jackpot amount is increased, therefore, the more tickets that are sold the higher the jackpot. Consequently, each purchased ticket modifies the potential prize amount.

Scanlon lacks in disclosing determining the price of a ticket based on an expected value associated with the lottery ticket. The Washington State Lottery introduced a game entitled "Double Lotto." The lottery agent receives a request from a player to purchase a lottery ticket for a pari-mutuel lottery game. Players can pay \$2 for a ticket instead of the regular \$1 per ticket price. By paying the extra dollar players automatically double the prize amount if they win. Consequently, the price of the ticket is determined based on the expected value associated with the lottery ticket, i.e. the price of the ticket is doubled based on doubling the expected value of doubling the jackpot [claim 36]. It is also based on a current winning amount, i.e. double the price for double the jackpot (See "Double Lotto", pg. 1) [claim 38]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow players to receive the total jackpot amount even if multiple lottery tickets are winners [claim 37]. By paying an additional fee in Double Lotto players can ensure that their prize amount will be double the jackpot value. Consequently, it would also be obvious to pay an additional fee to ensure that you will win the entire jackpot amount even if there are multiple winners. As seen in Double Lotto, players want to win as much as possible and will pay additional fees in order to win more money. When players purchase tickets they are ensured of winning a current total winning amount even if the total winning amount is subsequently adjusted [claim 39]. For example, if a player purchases a ticket when the jackpot is \$4 million, and the jackpot later rises to

Art Unit: 3713

\$8 million dollars, the player was still assured of winning \$4 million at the time he purchased the ticket. In the game Double Lotto, the price of the ticket is independent of the cost of the lottery ticket to a lottery game provider; the cost of the ticket is based on how much of the jackpot a player wishes to win [claim 40]. Double Lotto as in any lottery game determines the price of a ticket based on a minimum price that subsequent players will be required to provide in exchange for participating in the pari-mutuel lottery game [claim 43]. For example, all regular tickets cost \$1, which is the minimum price a player, must play to enter the game. Another price is determined that subsequent players will be required to provide in exchange for another lottery ticket having at least an expected value [claim 44]. For example, tickets cost \$2 to have an expected value of twice the jackpot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the "Double Lotto" system into the lottery game of Scanlon. Players want to win as much money as possible. By only paying one extra dollar, players can expect to win twice the jackpot amount. Consequently, this is an incentive to both the player and the lottery agent. The player can win more money and the lottery agent is able to collect more money in ticket sales.

Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scanlon in view of "Double Lotto" in further view of "Our Opinion State Scamming lottery buyers". Scanlon, lacks in disclosing determining the potential prize amount based on a current popularity of a

Art Unit: 3713

lottery number combination. "Our Opinion State Scamming lottery buyers" teaches of locking out particular numerical combinations that are too popular (See "Our Opinion State Scamming lottery buyers") [claims 41 & 42]. By not allowing players to purchase tickets with popular combinations, the lottery agents are able to maintain their interest in the game. By controlling the odds, the lottery agents can ensure that they receive a portion of the bets, in turn determining a potential prize amount. It would also have been obvious to one of ordinary skill in the art at the time the invention was made to determine a ticket price based on the past popularity of a lottery number combination. If a lottery number combination is very popular the lottery agent can adjust the price of the ticket either higher or lower than normal to ensure that the lottery agent receives their share of the bets made thus maintaining their interest in the game. This is good business practice.

Conclusion

This is a continuation of applicant's earlier Application No. 09/608245. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3713

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

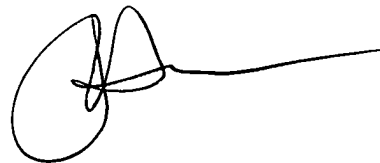
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone number is 703-308-7306. The examiner can normally be reached on M-Th 7:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julie K Brockett
Examiner
Art Unit 3713

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

**JESSICA HARRISON
PRIMARY EXAMINER**